

IN THE MISSOURI SUPREME COURT

No. SC95713

**PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI, AND
MISSOURI AMERICAN WATER COMPANY,
Respondents**

v.

**OFFICE OF PUBLIC COUNSEL,
Appellant**

**AMICUS CURIAE BRIEF OF UTILITY WORKERS OF AMERICA
LOCAL UNION 335 IN SUPPORT OF THE PUBLIC SERVICE
COMMISSION OF MISSOURI AND MISSOURI AMERICAN WATER
COMPANY**

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STATEMENT OF INTEREST OF AMICUS CURIAE

Utility Workers Union of America (“UWUA”) Local 335, which has over 360 members in the St. Louis area, supports the legal arguments put forth by Respondents.

This brief discusses this issue from a community perspective and will help the Court understand the devastating impact that would result from the construction of the population statute as argued by the Office of the Public Counsel (“OPC”).

OPC argues that Respondent Missouri-American Water (“MAWC”) is no longer eligible for an infrastructure system replacement surcharge (“ISRS”) because, due to the 2010 population drop, St. Louis County lacks the population required by the authorizing statute, Mo. Rev. Stat. § 393.1003. This interpretation presents an incredible risk to the local community in terms of economic loss and harm to public health and safety. Water pipelines in St. Louis County are aging and require upgrades to remain operational in the future. The ISRS program allows for job-sustaining investments that will save ratepayers in the long run from the expensive costs associated with service interruptions, water main breaks, damage to property and other dangers associated with damaged or corroded pipes.

By construing the population statute, Mo. Rev. Stat. § 1.100.2, in a manner that conflicts with the intent of the legislature to enable utilities to take advantage of the ISRS program to fund infrastructure investments, the ability for MAWC to repair and replace aging water pipes in St. Louis County will be compromised and the livelihoods of men and women whose jobs depend on continued infrastructure investment will be at risk.

A recent study found that water and wastewater utilities in the St. Louis region contribute overall to approximately 13,250 jobs.¹ The economic impact of losing the ISRS program in St. Louis County could exceed millions of dollars in spillover effects, including job losses. For UWUA Local 335, losing the ISRS program could result in job losses for approximately one-fourth of its membership.

¹ Metro Water Infrastructure Partnership (MWIP), *Our Aging Water Infrastructure: The Attribute and Needs of the Water and Wastewater Infrastructure in the Bi-State St. Louis Region*, 19 (August 2014).

POINT RELIED ON

- 1. The Public Service Commission's order granting MAWC's water ISRS petition is critical to protecting local jobs and economic activity, as well as ensuring public safety and the integrity of infrastructure systems that deliver safe, clean water to homes and businesses.**

STANDARD OF REVIEW

UWUA Local 335 incorporates the standard of review set forth in the Brief of the Commission.

ARGUMENT

- 1. The Public Service Commission's order granting MAWC's water ISRS petition is critical to protecting local jobs and economic activity, as well as ensuring public safety and the integrity of infrastructure systems that deliver safe, clean water to homes and businesses.**

OPC argues that the Commission's jurisdiction to consider water ISRS petitions is limited to those instances in which the petitioner provides water service in a charter county with more than one million inhabitants, and because of the drop in population reflected in the 2010 census, MAWC does not provide water service in a charter county with more than one million residents. If this is the case, no county in the state of Missouri would qualify for the incredibly important ISRS program created by the General Assembly in 2003.

As the Legislature recognized, increased investment in infrastructure is necessary and carries with it an inherent rate increase burden. However, it also presents an opportunity to create much-needed jobs in the area while making a lasting investment in the future of the community. The employment and economic impact of the local water and wastewater utilities is considerable:²

² *Id.*

- The utilities annually employ over 2,000 individuals, while approximately 13,250 jobs are supported overall as a result of supplier purchases and maintenance and construction.
- Combined spending averages \$182 million per year on local vendor supply purchases.
- Average spending on maintenance and construction of water and wastewater facilities totals \$265 million.

Additionally, this impact is projected to rise in the future as additional maintenance spending and construction is budgeted. All of these activities by the utilities have substantial economic effects, and by the same logic the absence of the ISRS program poses significant risks to existing investments. Continued delay in enabling MAWC to take advantage of the ISRS program will result in continued loss of infrastructure improvement and economic activity, including the jobs of one-fourth of the membership of UWUA Local 335.

Dr. Jack Strauss, the Simon Chair of Economics and Director of the Simon Center for Regional Forecasting for Saint Louis University, provided a financial model to determine the beneficial effects of the water and wastewater utilities in the bi-state St. Louis region. The U.S. government's Bureau of Economic Analysis (BEA) model was used, as its model can be specifically designed to demonstrate the effects of utilities in the bi-state St. Louis region on employment and income. The study found that spending on payroll, local vendors and maintenance/construction lead to more than \$1.3 billion in income and spending annually to the community.³ The study also noted that:

³ *Id.*

“Failure to obtain appropriate rates or fee increases will not only limit the direct employment of utility workers and local supplier purchases, but also severely constrain maintenance and construction spending as well as overall employment in the bi-state St. Louis region. If lower rate increases over the next 5 years tend to reduce planned water and wastewater, maintenance and construction investment, the economic impact could exceed a billion dollars in economic spillover effects including job loss.”⁴

Every million dollars that utilities invest in construction generates nearly 20 jobs and \$2.3 million in income to the bi-state St. Louis region. If the projected spending over the next five years in maintenance/construction alone is \$1.4 billion, this would generate nearly \$4 billion in spending to the community and the additional employment of 4,770 jobs.⁵ Additionally, local water and wastewater utilities support a large number of independent contractors who supply needed equipment and labor in the area. The annual spending on local vendors/supplier purchases averages \$182 million. Over the next five years, assuming 2.5% annual inflation, the vendor purchases contribution to the community will have an impact exceeding \$2.6 billion and generate 3,360 jobs.⁶

This economic stimulus in the St. Louis County area will be dealt a devastating blow if MAWC is unable to utilize the ISRS program. Since 2003, ISRS has helped fund

⁴ *Id.*

⁵ *Id.* at 20.

⁶ *Id.*

approximately \$445,515,360 in St. Louis County water system upgrades. (Exhibits to Transcript of Tinsley Testimony at PSC Hearing, 6/3/15, at WD78792, Exhibit page 14). To date, MAWC has suspended nearly \$30 million worth of pipe replacement projects totaling more than 130,000 feet that were planned for this year as a result of the issue at hand. This not only threatens the jobs of one-fourth of the members of UWUA Local 335, but it also poses a serious threat to the health and safety of residents and increased costs associated with water system failures.

For example, delays in water pipe replacement result in increased water main breaks. In order to calculate the economic costs associated with water main breaks, Dr. Strauss utilizes a highly sophisticated method that takes into account local traffic and economic activity. Overall, his study found that the cost of water main breaks to St. Louis County over five years to be \$23 million in arterial and highway congestion costs, \$1 million in excess fuel costs, \$2 million in residential congestion costs, and \$79 million in water service disruption costs.⁷ This totals \$105 million in negative economic activity to St. Louis County as a result of water main breaks that can be prevented by routine water pipe inspection and replacement.

According to the Missouri Department of Natural Resources, “Missouri’s aging drinking water and wastewater infrastructure serving Missouri’s cities and towns are in

⁷ Jack Strauss, *The Economic Impact of Water Main Breaks and Replacement*, 5 (January 2014).

serious need of improvement of replacement.”⁸ The Department contends that “the demand on public infrastructure has continued to grow, while financial resources have not kept pace.”⁹ The Department estimates that the cost to meet this need exceeds \$9 billion over the next twenty years.¹⁰

The ISRS programs presents the best opportunity for MAWC to introduce modest rate increases to fund critical infrastructure projects that will employ local residents, including one-fourth of the members of UWUA Local 335, while also promoting long-term public health and safety across St. Louis County. It is critical that the population statute be construed to recognize the legislature’s intent to help St. Louis County residents benefit from continued improvement to their water infrastructure to promote health and safety, as well as economic activity and job creation.

⁸ Missouri Department of Natural Resources, *The State of Missouri’s Natural Resources* 2014, 42.

⁹ *Id.*

¹⁰ *Id.*

CONCLUSION

For the reasons stated above, the Commission's Report and Order granting the ISRS to MAWC should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2016, a true and correct copy of the foregoing was filed through the Court's electronic filing system, and that a copy was sent via email to all attorneys of record, including:

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitation of Rule 84.06(b) of the Missouri Rules of Civil Procedure. This brief was prepared in Microsoft Word 2010 and contains 1,659 words, excluding those portions of the brief listed in Rule 84.06(b) of the Missouri Rules of Civil Procedure. The font is Times New Roman, proportional spacing, 13-point type.

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